

**FILED**  
DISTRICT COURT OF GUAM  
JUN - 5 2006 *PS*  
MARY L.M. MORAN  
CLERK OF COURT

Virgil Lorenzo  
PSC 559 BOX 5288  
FPO AP 96377  
011 81 98 965 7813

DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

Virgil Lorenzo <i>pro se</i>	)	MOTION IN CIVIL CASE
Plaintiff	)	
vs	)	CASE NO. 05 - 00035
Donald Rumsfeld	)	
Secretary, Department of Defense	)	
Respondent	)	
_____	)	

COMES now the Plaintiff, Virgil Lorenzo *pro se*, and moves to oppose the Defendant's opposition to Plaintiff's opposition to Defendant's motion to transfer or dismiss Plaintiff's complaint.

First, the transfer. The alleged discrimination occurred in DODEA's Pacific Area, an administrative unit under the leadership of Director Nancy Bresell and remedy is being sought in the same administrative unit. TAB 1. The website <http://www.pac.dodea.edu/>

1 is dedicated to this administrative unit that includes Okinawa and Guam. It stands to  
2 reason that the USDC located within the boundaries of this administrative unit has  
3 jurisdiction over cases that arise from this unit. USDC Guam, therefore, has that  
4 jurisdiction.

5 Respondent also states that my bare assertion over Ed Banca's action does not match  
6 the signed statement of Paul Wolf. It is obvious that without Respondent's authorization, I  
7 cannot demand a signed statement from Banca similar to the signed statement of Paul  
8 Wolf that Respondent obtained. I only can approach Banca as an applicant for teaching  
9 positions. The court will note, however, from the continuing correspondence that Banca  
10 does exercise full authority over my concerns and is not constricted by Paul Wolf. TAB  
11 2.

12 Second, the dismissal. As the court may note from the letter sent by the USDC San  
13 Diego, I acted immediately after the EEOC referred me to the U.S. District courts. There  
14 was due diligence in sending the summons and complaint to the Secretary of Defense  
15 through his representatives and to his office. Twice, however, Rumsfeld's office did not  
16 send PS Form 3811, the return receipt that accompanied the certified mail containing the  
17 summons and complaint. Given the war and many parents alleging wrongful death or  
18 injury of their sons and daughters due to mismanagement by Rumsfeld, his office  
19 understandably could be deluged by complaints and summons. His representatives at  
20 DODEA and the U.S. Attorney's office, however, have acknowledged receipt of the  
21 court's summons and my complaint. Given receipts of certified mail to Rumsfeld and  
22 given PS Form 3811 sent by the Attorney General in Washington, D.C. and the U.S.

1 Attorney in Guam, as well as by DODEA Counsel who received complaints for Rumsfeld  
2 in the past, may these satisfy the court that Rumsfeld has been served.

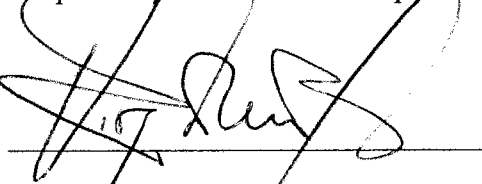
3 In conclusion, the USDC in Guam is empowered by Congress to bring justice where  
4 injustice is alleged under Title VII, especially since the alleged injustice was committed  
5 in an administrative area of an agency of the U.S. Government that includes Guam.

6 Each United States district court and United States court of a place subject to the  
7 jurisdiction of the United States shall have jurisdiction of actions brought under  
8 this title. Such an action may be brought in any judicial district in the State in  
9 which the unlawful employment practice is alleged to have been committed, in  
10 the judicial district in which the employment records relevant to such practice are  
11 maintained and administered, or in the judicial district in which the aggrieved  
12 person would have worked but for the alleged unlawful employment practice, but  
13 if the respondent is not to be found within any such district, such an action may be  
14 brought within the judicial district in which the respondent has his principal  
15 office....  
16

17 PRAYER

18 I therefore beseech the court to proceed and issue instructions for discovery so that  
19 justice may not be delayed longer than it already has.  
20

21 Respectfully submitted and copies furnished the respondent on June 2, 2006.

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23 

24 Virgil Lorenzo *pro se*, Plaintiff  
25  
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# TAB 1

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**DEPARTMENT OF DEFENSE DEPENDENTS  
SCHOOLS-PACIFIC/  
DOMESTIC DEPENDENT ELEMENTARY &  
SECONDARY SCHOOLS-GUAM  
DIRECTOR'S OFFICE  
UNIT 35007  
APO AP 96376-5007**

May 16, 2006

### A Message from the Director: Living Quarters Allowances and Reconciliation

Employees in DoDDS-Pacific/DDESS-Guam who receive Living Quarters Allowance (LQA) enjoy an important benefit that few other Federal employees receive. For most of our workforce, LQA covers the full cost of their rent and utilities. While our employees enjoy many other benefits, including COLA, travel entitlements, health and life insurance, Thrift Savings Plan, and the retirement program, clearly the entitlement giving the greatest immediate economic benefit is the LQA.

LQA is a reimbursement of actual housing expenses, and because employees do not receive more than their expenses, the IRS deems LQA to be non-taxable income. The LQA reconciliation process ensures that employees receive LQA equivalent to their housing expenses. We used to require employees to reconcile LQA each year. Now, employees are only required to reconcile LQA after their first year of residency in a housing unit. Reconciliations after this first one are optional for the employee. However, the first year reconciliation is mandatory and employees must comply with this requirement if they wish to continue to receive LQA.

The reason that employees must reconcile after the first year is because, when the employee moves into the quarters and starts the grant of LQA, s/he is only able to estimate utility expenses. There is no historical baseline to determine utilities usage. Through the reconciliation process, DoDEA compares the first year actual expenses with the amount the employee was paid based on the estimate. Employees will either receive a check to make up the difference if they were underpaid, or a notice of indebtedness if they were overpaid. LQA for the subsequent years will then be based on the actual expenses from the first year.

We have recently seen a significant number of employees who are indebted several thousand dollars because they did not reconcile at the end of the first year, or because they significantly overestimated their utilities costs, or, the worst case scenario, did both. In some cases, the employee submitted a reconciliation in a timely manner, but the processing was held up at DoDEA. For these reasons, DoDEA entered into a Memorandum of Understanding (MOU) with FEA to enforce the reconciliation process and provide more information to teachers on the procedures and requirements of LQA reconciliation. Now, employees will sign an MOU outlining their responsibilities for reconciliation at the time the LQA is initiated. They will also receive a reminder 45 days before the end of the first year and another reminder at the end of the first year. If the employee does not submit the reconciliation within 45 days after the end of the first year in the quarters, or does not make arrangements with DoDEA for an extension of time to submit the reconciliation, the payment

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## HIGHLIGHTS

**DoDDS Pacific Literacy Project:** a three-tiered approach to providing reading instruction so that all children will be successful

**Pacifica, SY 2004-2005:** a spotlight on people, places, and programs in DoDDS Pacific

of the utility portion of the LQA will be suspended until the reconciliation is received. While DoDEA does not want to suspend payment for utilities, we must take aggressive action to eliminate the extensive overpayments and indebtedness cases that have occurred over the past year. The DoDEA Human Resources Center has also assured us that they will process current and future reconciliations in a timely manner.

The Pacific spends over \$40 million annually to reimburse employees for housing costs. The money that is used to pay DoDEA employees in the Pacific for LQA and other allowances, i.e., Temporary Quarters Subsistence Allowance (TQSA), Post Allowance (COLA), and Post Differential, comes from the same funding that is used for other programs, such as incentive awards, Extra Duty Pay for teachers, travel, and training. It is important that we efficiently manage the funds expended for LQA in order to minimize the adverse impact on these other important programs.

Every employee in the Pacific who receives LQA needs to understand the reconciliation process and follow the procedures that have been outlined. It helps us to appropriately manage this important quality of life program and helps the employee to keep reimbursements in line with expenses, avoiding overpayments and indebtedness. I would also ask that each of you do whatever you can to contain LQA and TQSA costs so we can use these funds for other worthwhile educational priorities in the Pacific. Thank you for your understanding and support.

Nancy C. Bresell  
Director, DoDDS-Pacific/DDESS-Guam

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Last Updated: May 19, 2006

# TAB 2

**VIRGIL LORENZO**

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**From:** "Virgil M. Lorenzo" <vmlorenzo@email.uophx.edu>  
**To:** "Banka, Edward" <edward.banka@pac.dodea.edu>  
**Sent:** Thursday, May 11, 2006 11:25 PM  
**Subject:** Re: Letter

Dear Mr. Banka,

I thank you for the prompt reply.  
 But, please, allow me to plead my case in another light.

The issue of fairness brings to mind two points.

1. The gravity of Mr. Roehl's evaluation must be balanced by the gravity of the criteria that defines 'past principals' who can give reliable information. In my case, what criterion was used? Nothing but some vague remembrance.
2. The EAS list of evaluators give the impression that these are all the evaluators on file. There is no disclaimer that allows for evaluators other than those on the list. The FOIA promotes transparency and the DODEA must be held to high standards of transparency. To hide Mr. Roehl's name as an evaluator and not to inform me that there could be other evaluators is not an exercise in transparency.

Your letter would put me on the same footing as other applicants.

Your kind attention is very much appreciated.

Sincerely,

Virgil M. Lorenzo, Ed.D.  
 Faculty, University of Phoenix  
 vmlorenzo@email.phoenix.edu  
 virgillorenzo@hotmail.com  
 Tel & Fax 81 98 965 7813

----- Original Message -----

**From:** Banka, Edward  
**To:** Virgil M. Lorenzo  
**Sent:** Thursday, May 11, 2006 6:46 PM  
**Subject:** RE: Letter

Dear Mr. Lorenzo,

I regret that I cannot provide you the letter you request. I have removed the evaluation of Mr. Roehl, but will not take any further action with regards to that issue. It is not an unauthorized or unlawful policy to solicit recommendations from past principals and place these recommendations in the applicant files. In fact, it's an established business practice for most Federal agencies.

Under the Freedom Of Information Act (FOIA), you have a right to a copy of any files maintained on you and to challenge the accuracy or correctness of those files. It was in the spirit of the FOIA that I determined it was more equitable to remove the letter.

I am not surprised that you do not get a response from principals when you ask them how you can improve your chances of being selected. I do not think any principal would respond to any candidate with that question. Any response would create an opportunity for the nonselected candidate to challenge the selection and would create an expectation from the candidate and a tacit obligation from the selecting official that if the candidate does what the principal recommends, that candidate will be selected next time. Principals are advised not to respond to these type of inquiries. Additionally, principals are very busy and do not have time to provide career counseling to prospective applicants.

I regret that I cannot give you a more favorable reply

6/2/2006



Sincerely,

Ed Banka  
Chief, HR Division

**From:** Virgil M. Lorenzo [mailto:vmlorenzo@email.uophx.edu]

**Sent:** Thursday, May 11, 2006 7:11 AM

**To:** Banka, Edward

**Subject:** Re: Letter

Mr. Banca,

I forgot to mention on my last Email that I also carry an Indiana license in Secondary School Administration and Supervision. This one is subject to renewal in a couple of years but my teaching license is for life. It is the same license I presented the first time I worked at DODEA in Heidelberg, Germany.

I see several open admin positions but I would like to be able to include the letter I asked of you earlier when I apply.

Respectfully,

Virgil

Virgil M. Lorenzo, Ed.D.  
Faculty, University of Phoenix  
vmlorenzo@email.phoenix.edu  
virgillorenzo@hotmail.com  
Tel & Fax 81 98 965 7813

----- Original Message -----

**From:** VIRGIL LORENZO

**To:** Banka, Edward

**Sent:** Thursday, May 11, 2006 2:00 AM

**Subject:** Letter

Mr. Banca,

Please recall our exchange of Emails last year concerning Mr. Roehl's evaluation that you deleted. Until its deletion, that evaluation was on my file for four years, in full view of principals that I wrote to and called attention to my EAS file. I am afraid that many of them are thinking the way you do, namely, that the evaluation was deleted because Mr. Roehl does not have the time to go back into his files but that there was something to it. As a result, I am still seeking placement in DODEA. There were two Spanish positions I was in consideration but lost. When asked via Email why I lost and how I may improve my chance the next time around, the principals chose not to respond. I feel that I am being quietly de-selected. The policy of hiding Mr. Roehl's evaluation from me while exposing it to principals lent itself to this quiet de-selection.

It is for this reason that I am once more requesting for a letter from you stating that Mr. Roehl's evaluation should never have been on my file. For one thing he could not support it. Then there's the fairness issue about the decision to hide his name from me for four years while his evaluation was in full view of school principals. That is clearly an erroneous policy, if not unlawful.

In addition to your letter, please inform me of what positions may be available in Okinawa or Guam that I qualify in. I recently completed two methods courses in elementary teaching: language arts and science. I am adding another methods course in science next month, this time at the high school level. These should give me by July 1 the 30 units that the standard in science calls for. Currently I am state certified in English and social studies and have 30 units in Spanish.

As always, I thank you for your kind attention.

Sincerely,

6/2/2006